

BEFORE THE IDAHO BOARD OF TAX APPEALS

J.R. SIMPLOT FOUNDATION, INC.,	)	
	)	
Appellant,	)	APPEAL NO. 15-A-1203
	)	
v.	)	FINAL DECISION
	)	AND ORDER
ADA COUNTY,	)	
	)	
Respondent.	)	
	)	
	)	
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**CHARITABLE EXEMPTION APPEAL**

This appeal is taken from a decision of the Ada County Board of Equalization denying a request for tax exemption concerning property described by Parcel No. R6672120090. The appeal concerns the 2015 tax year.

This matter came on for hearing December 8, 2015 in Boise, Idaho before Board Member Leland Heinrich. Attorney John McGown, Jr. appeared at hearing for Appellant. Deputy Prosecuting Attorneys Gene Petty and Nancy Werdel represented Respondent.

Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision.

**The issue on appeal concerns whether the subject property qualifies for an exemption from taxation as property belonging to a charitable organization.**

**The decision of the Ada County Board of Equalization is reversed.**

FINDINGS OF FACT

The original assessed land value is \$1,131,700, and the improvements' value is \$61,435,600, totaling \$62,567,300. The Ada County Board of Equalization denied Appellant's claim for a full tax exemption, however, reduced subject's total market value to \$40,000,000. Appellant contends the property qualifies for a property tax exemption as property belonging to a charitable corporation.

The subject property is a 2.471 acre parcel located in downtown Boise, Idaho. The site includes roughly 3,400 square feet of sub-surface area near an underground garage owned by a separate entity. The property is improved with a six (6) story multi-use structure known commonly as Jack's Urban Meeting Place (JUMP). Including the parking and outdoor areas, JUMP consists of approximately 240,000 square feet, with interior spaces totaling roughly 66,000 square feet. Construction of JUMP began in 2012 and was mostly completed by the end of 2015.

Appellant detailed the history leading up to the construction of JUMP. Originally, Appellant intended to build a museum to display its collection of more than 100 antique tractors. During the planning stage of the museum, it became apparent to Appellant it would be difficult to maintain a high level of public interest and encourage repeat visitors with an exhibit-driven tractor museum. As a result, the museum idea was abandoned and Appellant began exploring other options to display the tractors and educate the public about Idaho's agricultural heritage. After considering several options, Appellant decided to incorporate the tractors into a community center to bring people together for public events and to provide learning opportunities for children. JUMP was specially designed to display many of Appellant's antique tractors, which are spread throughout the facility. JUMP also boasts two (2) large areas for community events, five (5) interactive learning studios, and several outdoor garden terrace areas open to the public. The studios and other meeting areas are available to rent for various events or activities. JUMP offers discounted rates to nonprofit organizations.

Construction of JUMP occurred over several years. Since construction began, JUMP received significant public interest and intrigue. Because of the high interest in the project,

Appellant began offering tours and community presentations of the facility to the public and local community organizations to explore and identify the various ways JUMP could be used once construction was complete. During 2014, Appellant reported giving onsite tours to roughly 500 people. Most tours were guided by Appellant's staff, however, some tours were conducted by the firm constructing JUMP. In addition, Appellant estimated more than 1,100 people were part of its community presentations and roughly 50 people took part in JUMP informational meetings. Local media outlets were granted multiple onsite visits. Also in 2014, JUMP hosted a dance class, and also further engaged more than 75 contractors, students, city employees, and others to test the prototype exhibits. Appellant also described a partnership between the construction firm and the Boise State Construction Management School wherein students from Boise State were granted access to JUMP to study the different techniques used to construct the facility. The construction firm also sponsored a group of Boise State students in an engineering-construction management competition in Reno. 2014 was also the year many of the tractors were installed throughout the facility because they needed to be placed during various stages of the construction.

Appellant contended it met the requirements of Idaho Code § 63-602C, commonly known as the charitable exemption. Appellant noted it was a nonprofit corporation pursuant to Section 501(c)(3) of the Internal Revenue Code, which satisfied the requirement of the property belonging to a charitable organization. Appellant also argued it satisfied the use requirement of the exemption statute by virtue of tours and other public engagement activities conducted throughout 2014.

Respondent agreed Appellant is a charitable organization as contemplated by the statute,

however, maintained the use requirement was not satisfied. Respondent emphasized JUMP was under construction as of January 1, 2015. As such, Respondent reasoned JUMP was not used “exclusively for the purposes for which [Appellant] is organized . . .” Idaho Code § 63-602C. Appellant estimated JUMP was roughly 70% complete on January 1<sup>st</sup>.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value, or as applicable exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The question before the Board is whether subject qualifies for the charitable exemption.

Idaho Code § 63-602C provides in pertinent part;

The following property is exempt from taxation: property belonging to any fraternal, benevolent, or charitable limited liability company, corporation or society, the World War veteran organization buildings and memorials of this state, used exclusively for the purposes for which such limited liability company, corporation or society is organized . . . .

The statute outlines a two-pronged inquiry; 1) whether the property belongs to a charitable organization, and 2) whether the property was used exclusively for the purposes for which the charitable entity was organized. Regarding ownership, the parties agree, and the record does not suggest otherwise, Appellant is a charitable organization to which subject belongs. The issue then centers on subject's use.

Respondent argued subject was not used in furtherance of Appellant's charitable objectives because JUMP was under construction on January 1, 2015, the relevant date in this appeal. Idaho Code § 63-205. In support of this position, Respondent pointed to a district court

case from 1998, as well as a decision issued by this Board in 2014. The court case, *Ada County v. St. Luke's Reg. Medical Center* concerned a hospital exemption claim for a hospital during the construction phase, as well as a claim for a charitable exemption. Employing the strict but reasonable rule of construction as required for tax exemptions, the court denied<sup>1</sup> both exemption claims on similar grounds; that the hospital was not being used during construction. The court held,

This Court certainly believes that there are valid public policy reasons to grant a tax exemptions for buildings under construction as in this instance. Given the narrow construction applied to exemptions, however, this Court does not believe that the words chosen by the Legislature in the exemption statutes can be stretched to encompass buildings under construction. This Court is constrained to hold that St. Luke's is not entitled to an exemption for the property upon which the Meridian Facility was being constructed.

*Ada County v. St. Luke's Reg. Medical Center*, Case No. CV-OC-97-04923\*D (4<sup>th</sup> Dist. Ct. Id., 1998).

In similar fashion, this Board denied a religious exemption to a church under construction. Relying on the same grounds as the *St. Luke's* decision, this Board found the church building was not used exclusively for the religious purposes for which the claimant was organized. Specifically, it was found, "The Board cannot find in this statutory language where an intended use, or a future use is relevant. Nor is there evident a provision that provides for new improvements - even an addition, which are under construction, to be exempt." *In the Matter of the Appeal Grace Bible Church*, Appeal No. 13-A-1001, Idaho Board of Tax Appeals, 2014 Ida. Tax LEXIS 52 (January 3, 2014).

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<sup>1</sup>The case was not heard by the Idaho Supreme Court because the Legislature amended the hospital exemption statute, thereby granting the relief sought by St. Luke's.

While JUMP was under construction, similar to the facilities in *St. Luke's* and *Grace Bible Church*, the Board does not reach the same conclusion in this instance. The exemptions were denied in *St. Luke's* and *Grace Bible Church* because the respective facilities were not used for charitable or religious purposes during construction. The same, however, does not hold true here, where Appellant was actively using JUMP during 2014 while construction was active and ongoing.

Not only is JUMP a unique facility itself, the use of the property for tours and educational purposes during construction was also somewhat unique. The record reveals approximately 500 people toured the facility during 2014, and more than 1,000 community leaders and organizations participated in JUMP presentations and community engagement meetings conducted by Appellant. Admittedly, JUMP was not “open” to the general public in the same way it will be when the facility is completed. The controlling statute, however, does not require continuous or every day charitable use of the property to qualify for the exemption. Rather, the statute simply requires the property be used exclusively for the charitable purposes for which Appellant is organized and not some other purpose. Such is the case here, where the only “use” of the property was educating the public about JUMP in furtherance of Appellant’s charitable objectives. Construction is not a use, even though active construction can restrict the types or degree of use. Commonly a property is simply not used for its intended purpose during the construction phase. JUMP, however, was used during construction, which use in the Board’s view is sufficient to satisfy the *use* requirement of Idaho Code § 63-602C.

Based on the above, the decision of the Ada County Board of Equalization is reversed, to grant a charitable exemption to the JUMP facility.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the exemption decision by the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, REVERSED, granting a full charitable exemption for the 2015 tax year.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 63-1305, any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 8<sup>th</sup> day of April, 2016.